had no information, leading it to believe that the corporation was thereby made insolvent. Scott and McLaughlin, J.J., *dissenting.*

The assets of a corporation are a trust fund for the payment of its debts upon which the creditors have an equitable lien both as against stockholders and all transferees, except those purchasing in good faith for value. *Brum v. Ins. Co.,* 16 Fed. 143; *San Francisco R. R. Co. v. Bee,* 48 Cal. 398. This doctrine obtains whether a corporation is solvent or insolvent. *Union Nat. Bank v. Douglas,* 1 McCrary 86. In England, the so-called "trust fund" doctrine is not applied in respect to business corporations. *In re Wincham Shipbuilding Co.,* 9 Ch. Div. 322. But a person who pays value for negotiable paper is to be regarded as rightful holder unless he has been guilty of actual bad faith and he is not bound to make inquiries as to defects in the title thereof. *Johnson v. Way,* 27 Ohio St. 374; *Spooner v. Holmes,* 102 Mass. 503. There are minority *dicta,* however, supporting the dissenting opinion here, which hold that a corporation note, given for an individual obligation is not given in the regular course of business, but presumptively is *ultra vires* and therefore, one who takes such paper with knowledge that it is not given for a corporate purpose, can have no claim to the protection accorded a *bona fide* holder. *McLellan v. Detroit File Works,* 56 Mich. 579; *West St. Louis Savings Bank v. Shawnee County Bank,* 95 U. S. 557.

CRIMINAL LAW—FORMER JEOPARDY.—STEINKUHLER V. STATE, 109 N. W. 395 (NEB.).—*Held,* that to constitute a former jeopardy, it must appear that the defendant was put upon trial before a court having competent jurisdiction upon an indictment or an information sufficient in form and substance to sustain a conviction, and that the jury was impaneled and sworn, and thus charged with his deliverance. This privilege, derived from legal guaranty, was common law, 4 *Bl. Comm.,* 335; and when declared in the American Bill of Rights, it was held that it applied only to the Federal Courts, *United State v. Gilbert, Fed. Cas.,* No. 15204, *Cold v. Eves,* 12 Conn. 243; but the constitutions of the several states have the same provision, *Bishop Crim. Law,* Vol. I, 650. It applies to felonies and misdemeanors, but not to actions *qui tam;* nor to civil or tort actions; nor to any action which does not make the defendant liable to be restrained from his personal liberty, *Brink v. State,* 18 Tex. App. 344; *State v. Spear,* 6 Md. 644. It may be waived by the defendant, *State v. Gurney,* 37 Maine 156. In its application, the interpretation has occasionally been, "That no man shall be tried twice for the same offence," *People v. Goodwin,* 18 Johns. 187; but "how can it mean that when there is a plain difference between a verdict given and the jeopardy of a verdict? Hazard, peril, danger, jeopardy of a verdict cannot mean a verdict given." *Commonwealth v. Cook,* 6 S. & R. 577; *Bishop Crim. Law,* Vol. I, 661; *Cobin v. The State,* 16 Ala. 781. Thus it follows that former jeopardy attaches as soon as a person has once been put upon his trial before a court of competent jurisdiction, upon an indictment or information, which is sufficient to sustain a conviction and the jury has been charged with his deliverance, and if, afterwards, for any reason, the jury are discharged unnecessarily and without his consent, he is entitled to his discharge and cannot be tried again, *Wright v. State,* 5 Ind. 290; *State v. Wallers,* 16 La. Ann. 400; *Price v. State,* 19 Ohio 423. But there can be no former jeopardy when the acquittal was obtained by fraud, *State v. Brown,* 16 Conn. 54; nor if indictment or information is defective, no matter how far trial has proceeded, *Maxwell Crim. Procedure,* 566; *Commonwealth v. Peters,* 12 Met. 387; nor

if one juror escape, *State v. Hall,* 4 Halst. 256; likewise if juryman was incompetent or not sufficiently sworn, or if the case was tried by a less than legal jury, *Brown v. The State,* 5 Eng. 607; nor if jury are discharged upon failure to agree, but *contra* if the discharge before disagreement is without defendant's consent, *United States v. Perez,* 9 Wheat. 579; nor proceedings before a grand jury, *State v. Whipple,* 57 Vt. 637; nor increased penalties for subsequent offences, *Kelley v. People,* 115 Ill. 583; nor a plea of guilty extorted by duress and judgment entered upon it, *Sanders v. State,* 4 *Crim. Law Mag.* 359; nor pendency of other indictments for the same charge, *Bailey v. State,* 11 Tex. App. 140.

DIVORCE—ACTION—STATE COURT—JURISDICTION—DOMICILE.—STATE EX REL ALDRACH V. MORSE, 87 PAC. 705 (UTAH.)—*Held,* that where a husband and wife were married and resided in Utah, where the husband abandoned the wife, the matrimonial domicile was in that state, which was all that was essential to confer jurisdiction to decree a divorce, though the husband could not be personally served there.

This case is interesting as following the much discussed case of *Haddock v. Haddock,* 201 U. S. 562. The domicile of the husband for all practical purposes is the domicile of the wife. *Greene v. Greene,* 28 Mass. 410. But for the purpose of bringing a suit, when the husband's conduct is cause for the same, she may acquire a domicile distinct from his. *Ditson v. Ditson,* 4 R. I. 87. The desertion of the husband for a time sufficient to give the wife a cause for divorce, entitles her to sue in the former domicile of the husband. *Shaw v. Shaw,* 98 Mass. 158. So where the actual residence of the wife is in one state, but her domicile in another, an act of the husband, cause for divorce, will make the former her domicile, *Bowman v. Bowman,* 24 Ill. App. 165. By acquiring a foreign residence the wife does not lose the right to sue in the state of the husband's domicile, *Sewall v. Sewall,* 122 Mass. 156. There may be a separate domicile when the husband and wife are living apart under judicial separation, or when the husband has been guilty of misconduct. *Hunt v. Hunt,* 72 N. Y. 217; which overcomes the presumption that the domicile of the husband is that of the wife, *Harteau v. Harteau,* 14 Pick. 181; and the wife may maintain a suit in the state where they were last domiciled, *Burtis v. Burtis,* 161 Mass. 508.

EMBEZZLEMENT—INDICTMENT—CHARACTER IN WHICH PROPERTY WAS RECEIVED—ALLEGATION—SUFFICIENCY.—STORMS V. STATE, 98 S. W. 678 (ARK.).—*Held,* on a trial for embezzlement, evidence of similar transactions by accused, before and after transaction relied on, is admissible on the question of his intent.

In a prosecution of a clerk, in a Circuit Court for converting to his own use solicitor's fees in certain cases, proof of other acts of embezzlement of similar character is admissible to show guilty knowledge. *Stanley v. State,* 88 Ala. 154. In a prosecution for embezzlement previous acts of embezzlement similar to the one charged may be shown as evidence of guilty knowledge. *Same v. Neyce,* 88 Cal. 393. On a trial for embezzlement testimony as to transactions in the year following, and similar in character to those charged, are competent evidence to show guilty knowledge on the part of the defendant. *People v. DeGraff,* 6 N. Y. 412.

EVIDENCE—OPINIONS OF NON-EXPERTS.—DAVIS V. SHORT LINE RY. CO., 88 PAC. 2 (UTAH).—*Held,* that a man's wife, who had lived with him for many years, and was in attendance on him during his illness, and was in a